

Court of Appeals, State of Michigan

ORDER

In re Grant

Docket No. 351792

LC No. 88-005068-01-FC

Kirsten Frank Kelly
Presiding Judge

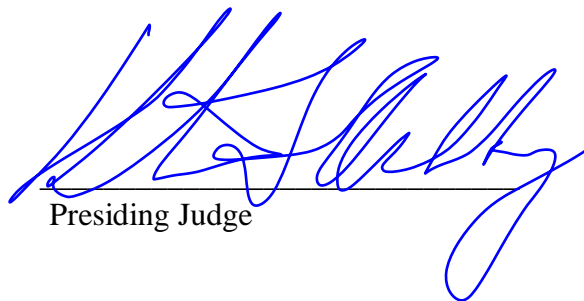
Michael J. Riordan

Thomas C. Cameron
Judges

The Court orders pursuant to MCR 7.206(D)(4) and MCR 7.216(A)(7) that plaintiff's complaint for a writ of superintending control is PEREMPTORILY GRANTED. Because plaintiff's successive motion for relief from judgment was "based on a retroactive change in law that occurred after the first motion for relief from judgment," and it was not returned for failure to substantially comply with the court rules, it should have been accepted for filing and adjudicated in an appropriate order. See MCR 6.502(G)(2). See also MCR 6.508(E); *People v Gates*, 503 Mich 871 (2018). Because the circuit court failed to abide by its clear legal duty to comply with the court rules in its handling of plaintiff's motion, and the court's failure in that regard left plaintiff with no adequate legal remedy or means of direct appeal, plaintiff is entitled to a writ of superintending control. See *Recorder's Court Bar Ass'n v Wayne Circuit Court*, 443 Mich 110, 134; 503 NW2d 885 (1993).

Accordingly, this matter is REMANDED to the circuit court for further proceedings consistent with this order. On remand, the circuit court shall accept plaintiff's disputed motion for filing pursuant to MCR 6.502(G)(2), refer that motion for decision by the appropriate judge, and then enter an order disposing of the motion on the merits pursuant to MCR 6.508(E).

This order is to have immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.


Presiding Judge

A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

March 25, 2020
Date


Chief Clerk